THE HON'BLE SRI JUSTICE A. GOPAL REDDY
AND
THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION NO.23953 OF 2007

Date: 3.12.2007

Between:

Smt. Yerukula Gangamma. … Petitioner

And

The District Collector and District Magistrate,
Kurnool, Kurnool District and others. … Respondents.

ORAL ORDER: **(per A. Gopal Reddy, J)**

In this Writ Petition, the petitioner Smt. Yerukala Gangamma W/o Sunkannam, mother of the alleged detenu – Yerukala Venkatesh, has challenged the order issued by the Government in G.O.Rt.No.2379 General Administration (Law and order II) Department dated 3.5.2007 confirming the order of detention passed against his son by the Collector and District Magistrate, Kurnool District dated 31.3.2007 under Section 3(1)(2) read with Section 2(a) (b) of A.P. Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (for short 'the Act, 1986').

Prior to his detention, the alleged detenu was arrested in the following cases booked by the

Prohibition and Excise Officials, Pattikonda, Kurnool District.

1. Cr.No.84/2005-06 dated 15.8.2005 of Prohibition and Excise Inspector, Pattikonda, wherein the alleged detenu was found to be transporting 12,000 arrack sachets in 43 white plastic bags each containing 300 arrack sachets.
2. Cr.No.147/2006-07 dated 30.8.2006 of Prohibition and Excise Inspector, Pattkiionda, wherein the alleged detenu was found to be transporting 10,500 arrack sachets in 35 white plastic bags each containing 300 arrack sachets.

In the above cases, the alleged detenu was found to be in possession and transporting illicit liquor containing poisonous substances, which are injurious to health and unfit for human consumption, in contravention of the provisions of the A.P. Excise Act, 1968. In Cr.No.147/2006-07, it is alleged that the alleged detenu was transporting 10,500 sachets of arrack in a white Tata Sumo near Eduladevarabanda cross road on Aspari-Kunool Main road from Karnataka State. The excise officials arrested A.1, while A.2 and the detenu ran away. In both the cases samples of liquor from the seized contraband were drawn and sent to the Chemical Examiner for Prohibition and Excise, Kunrool. As per the chemical analysis reports, it was found that all the samples drawn from the seized contraband were found to be “diluted arrack, unfit for human consumption and injurious to health”.

As the alleged detenu was continuously involving in the bootlegging activities i.e. possession, transportation and sale of illicit liquor for money gain in the Villages of Devarakonda, Kodumur and Gonegundla Mandals and acting in a manner prejudicial to the maintenance of public order and tranquility causing danger to the public, health and safety and acting as a ‘bootlegger’ under section 2(b) of the Act, the Collector and District Magistrate, Kurnool, in exercise of the power vested in him under sub-sections (1) and (2) of Section 3 read with Section 2(a) and (b) of the Act, 1986, ordered for his detention in the Central Prison, Cherlapalli, Hyderabad, in Rc.No.C1/384/M/2007 dated 31.3.2007. The Government in their order in G.O.Rt.No.1908 G.A. (Law and Order II) Department dated 11.4.2007, in exercise of the power under sub-section (3) of Section 3 of the Act, 1986, accorded approval to the order of detention passed by the Collector. Thereafter, the Government referred the matter to the Advisory Board constituted under Section 9 of the Act, which, after hearing the detenu, the investigating officers and after perusing the connected records made available to it, opined that there is sufficient cause for the detention of the detenu Sri Yerukala Venkatesh. The Government after taking into consideration the report of the Advisory Board and the material available on record, in exercise of the powers conferred under sub-section (1) of Section 12 read with section 13 of the Act, 1986, through G.O.Rt.No.2379 G.A. (Law and Order II) Department dated 3.5.2007 confirmed the order of detention and directed that the detention of the alleged detenu be continued for a maximum period of 12 months from the date of his detention i.e. 3.4.2007. Hence, this writ of habeas corpus.

The only contention urged by the learned counsel for the petitioner is that the detenu was not given any opportunity to explain that he is innocent of the offences alleged against him and he was falsely implicated in the crimes.

The counter filed by the 1st respondents says that the detenu was duly supplied with the order of detention, grounds of detention and other material and the same were acknowledged by him. He was also duly informed that he has a right to make representation to the detaining authority, Chief Secretary to Government and Advisory Board. The counter denies the allegation that the detenu was falsely implicated. It was categorically stated that in both the crimes the detenu was found to be in

possession of huge quantities of illicitly distilled liquor.

The material placed on record clearly shows that the detnu was found to be in possession of illicitly distilled liquor and transporting the same for sale in the Villages of Devanakonda Mandal and Kodumur Mandal, Krishna District. Therefore, the contention that he was falsely implicated has no merit. The grounds of detention and other material relied upon by the detaining authority were duly served on the detenu to enable him to make representation to the authorities concerned and as such the contention that he was not provided with any opportunity to prove his innocence has also no merit. Further, as already noticed, the detenu is involved in transportation of illicit liquor from Karnataka State in huge quantities, which, as per the reports of the Chemical Examiner is unfit for human consumption and injurious to public health. The Advisory Board after hearing both the parties and after perusal of the material placed before it came to the conclusion that there is sufficient cause for detention of the detenu.

In view of the above, we find no merit in the writ petition. Further, we have dismissed today a similar writ petition bearing W.P.No.20407 of 2007 (**G. Gvoind Raju v. The Collector and District Magistrate, Chittoor District and others**) following the law laid down by this Court and the Supreme Court on the subject, declining to interfere with the order of the detention passed by the Collector and District Magistrate, Chittoor on similar grounds. In view of the said decision also, this writ petition is liable to be dismissed.

In the result, the writ petition is dismissed.

However, it is open to the detenu to make a representation to the Government to reconsider the order of detention and release him from detention since he was already under detention for more than eight months. If such a representation is made, the Government may consider the feasibility of releasing him from detention before the completion of the detention period and pass appropriate orders, as expeditiously as possible and the result thereof be intimated to the petitioner.

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A. GOPAL REDDY, J

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3rd December, 2007 **NOOTY RAMAMOHANA RAO, J**

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Note: Furnish CC forthwith.

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